

The Land Development Code authorizes the Planning Commission to grant relief from many of the specific standards, through a public review process that includes notice to adjacent property owners. However, the Commission may not grant relief from portions of the LDC that are within the jurisdiction of the Board of Zoning Adjustment.

The following excerpts from the Land Development Code and KRS 100 determine what portions of the LDC may be modified and which entity has jurisdiction:

LDC Section 11.8.1 General The Planning Commission may modify, reduce or waive those standards and minimum requirements established by this Land Development Code which cannot be modified through a dimensional variance. Use, conditional use, density and FAR standards established in Chapter 2 shall not be modified by this process. Specific Chapter, Part or Section waiver procedures shall take precedence over the procedures established in this Part (e.g. – Parking Waiver procedure in Chapter 9).

KRS 100.111 (24) “Variance” means a departure from dimensional terms of the zoning regulation pertaining to the height, width, or location of structures, and the size of yards and open spaces where such departure meets the requirements of KRS 100.241 to 100.247.

Variance Examples (Changes to requirements that impact size (area, height, depth, etc.) and location of structures, yards (setbacks) and open spaces.

Section 4.1.2 :	Factory Built Housing	Width and number of stories, minimum area
Section 4.4.3	Fences, Walls and Signature Entrances	Fence height
Section 4.4.8	Outdoor Sales	Minimum distance from residential use
Chapter 4, Part 5	Alternative Development Incentives	Width of open space buffer between reduced size lots and adjacent single family development
Chapter 5, Parts 2&3	Form Districts	Building heights (minimum and maximum) and setbacks (includes maximum and minimum setbacks)
Chapter 5, Part 4	Residential Site Design	Maximum area of accessory structure, size of private yard
Chapter 5, Part 3	Business signs	Height and area of signs
Chapter 5, Part 5	Non-residential and Mixed Use Site Design – Traditional Form Districts	Corner Lot Requirement

Waiver Examples (Requirements not eligible for a variance and that are not expressly prohibited by LDC)

Section 2.7.4	TNZD	Unit size requirement for conversion to duplex.
---------------	------	---

Section 2.7.4	TNZN	Alter requirements of TNZN plan report, other than use and variance eligible requirements
Section 4.1.2	Factory Built Housing	First floor elevation, roof pitch
Section 4.1.3	Lighting	Height at which a light fixture is mounted
Section 4.4.3	Fences, Walls and Signature Entrances	Height of barbed wire or razor wire above the ground
Section 4.4.4	Garage Sales	Maximum area of garage sale
Section 4.4.5	Home Occupation	Maximum area occupied by business
Section 4.4.8	Outdoor Sales	Maximum area, maximum height of stacked items
Chapter 5, Part 6	Building Design Standards	Length of uninterrupted façade, height of display windows, % of façade in windows
Chapter 5, Part 8	Streets and Roadside Design Standards	Sidewalk width
Section 8.3.3	Business Signs	Freestanding sign on a lot in TNFD with street frontage less than 120 feet, sign on a lot with a building setback less than 15 feet from the front or street-side property line, style requirement (e.g. monument style)
Chapter 10, Part 1	Tree Canopy	Reduce tree canopy requirement
Chapter 10, Part 2	Landscape Design	Reduce landscape requirements
Chapter 10, Part 3	Parkway/Scenic Corridor setback and buffer	Reduce setback and waiver requirements
Section 8.3.6	Projecting Signs	Exceed one projecting sign permitted on a lot as long as the size of each projecting sign meets the 32 square foot size limit and the total area permitted for attached signage is not exceeded.
Section 8.1.6 paragraph S	Window Signs	Shall not exceed 25% of the total window area on a given façade.
Section 8.3.2	Attached, Awning, Canopy and Marquee	Exceed the maximum of three signs permitted per

	Signs	façade as long as the total area of all attached signs does not exceed the maximum allowed square footage for attached signs.
Section 5.4.1 and 5.4.2	Accessory Structure Size	Accessory structures cannot exceed the footprint of the principal structure on a lot.

Note: Only site, building and structure design elements are subject to the waiver provisions of the LDC. Regulations that prohibit certain structures or activities (e.g. freestanding signs prohibited in certain form districts), and other non-design related standards (e.g. limit on hours of operation) may not be waived. ***For example, pursuant to LDC Section 4.4.5.H, a home occupation that accommodates customers, clients, or pupils on the site is not permitted to operate between the hours of 9 P.M. and 7 A.M. This standard is not related to design and, therefore, is not subject to a waiver.***

Requirements that are not eligible for waiver or variance (requirements that are expressly prohibited by the LDC, are alternative designs/procedures to specific requirements, etc.)

8.4.6	Billboards	Restriction on new billboards in certain form districts (e.g. NFD and TNFD)
8.3.3	Business signs	No freestanding business sign within DFD
8.5.3	Portable Signs	No portable sign when an existing permanent freestanding sign exists (exception SMCDF)
8.6.2	Parkway and Scenic Corridor	No billboards, temporary, portable or outdoor advertising signs on any property adjacent to a designated parkway or scenic corridor.
4.4.5	Home Occupations	Requirements to be considered a home occupation (such as limits on hours of operation, number of customers allowed at one time, signage, parking, etc.)
8.3.3	Business Signs	Number of freestanding business signs permitted on a lot.
5.1.9	Alternatives to Maximum	Allowance to set back beyond maximum if the alternative design is met.
Chapter 4, Part 3	Permitted uses with Special Standards	Special uses permitted when applicable standards are met.
Chapter 4, Part 7	Environmental Constraints	Geotechnical Report Requirement

Note: Rather than seeking modification of the width of form district transition zones, the correct procedure will be to request variance/waiver of specific standard, rather than to change the width of the transition zone.

2/19/03